

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00841R

Parcel No. 320/03027-021-000

Thomas J. McGinnis,
Appellant,

v.

Polk County Board of Review,
Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on July 21, 2016. Thomas J. McGinnis was self-represented. Assistant Polk County Attorney Mark Taylor represented the Polk County Board of Review.

Thomas McGinnis is the owner of a residential, ranch dwelling located at 505 50th Street, West Des Moines. It was built in 1950 and has 2073 square feet of above-grade finish. It also has a detached garage and shop area. The site is 0.901 acres. (Ex. A).

The property's January 1, 2015, assessment was \$172,000 allocated as \$67,000 in land value, and \$105,000 in improvement value. On his protest to the Board of Review, McGinnis claimed the assessment was not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review reduced the assessment to \$164,500, by reducing the value attributed to the improvements finding the market data did not support the assessment. McGinnis then appealed to PAAB.

Findings of Fact

McGinnis explained that the house was originally a “country house,” but has transitioned over the years into a suburban house. The property was originally part of a 40-acre parcel. He notes the subject property has both a well and septic system, which is unusual for a property incorporated in West Des Moines. He explained that when he sells the property, the new owner will be required to hook up to city utilities. For these reasons, he believes the property is unique and there is nothing similar in the area.

He selected four properties as comparables to support his claim. His primary purpose for selecting them was their proximity to the subject property. McGinnis testified about the characteristics of each of the properties, comparing and contrasting them to his. We decline to recite his comparable properties because there is no indication that any of them have recently sold. Therefore, we are unable to develop an assessment/sales ratio, which is necessary to prevail in an equity claim.

Amy Rasmussen, Director of Litigation for the Polk County Assessor’s Office, testified on behalf of the Board of Review. Rasmussen pointed out the main difference between McGinnis’ property and the properties he selected for comparison have significantly different land sizes. McGinnis’ much larger lot adds additional value. In addition to their differing lot sizes, Rasmussen also discussed additional differences between the subject property and comparables including the age of the properties, their size, their components, etc.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also*

Hy-Vee, Inc. v. Employment Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

A taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

McGinnis selected four properties to compare to his property and its assessment. First, the properties McGinnis selected while having some similarities, possess substantial differences, including the size of their lots and the improvements' ages.

Moreover, none of these properties recently sold, which is a necessary factor to complete a *Maxwell* analysis. Likewise, McGinnis failed to show the Assessor's Office employed any inequity in setting the assessments. For these reasons, we find McGinnis failed to support his claim that the property is inequitably assessed.

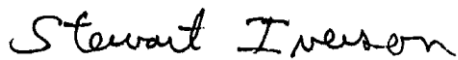
Order

IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

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